

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

**SPECIAL ORDER BY CONSENT**

**ISSUED TO**

**THE AUGUSTA COUNTY SERVICE AUTHORITY  
FISHERSVILLE REGIONAL STP**

*(VPDES Permit No. VA0025291)*

**SECTION A: Purpose**

This is a Special Order by consent issued under the authority of Va. Code § 62.1-44.15(8a) and (8d) between the State Water Control Board and the Augusta County Service Authority to resolve certain violations of environmental laws and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the DEQ.

5. "VRO" means the Valley Regional Office of the DEQ.
6. "ACSA" means the Augusta County Service Authority.
7. "FRSTP" or "the Facility" means the Fishersville Regional Sewage Treatment Plant, owned and operated by the ACSA.
8. "VPDES" means the Virginia Pollutant Discharge Elimination System.
9. "The Permit" means VPDES Permit No. VA0025291 issued to the ACSA for operation of the FRSTP on September 30, 1999.
10. "VPDES Permit Regulation " means 9 VAC 25-31-10 *et seq.*
11. "Order" means this document, also known as a Consent Special Order.
12. "NOV" means Notice of Violation.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. The ACSA owns and operates the FRSTP, located in Augusta County, Virginia. The FRSTP provides treatment for wastewater generated by citizens, businesses and institutions in portions of Augusta County as well as in portions of the cities of Waynesboro and Staunton. Wastewater is collected in each of these localities and conveyed to the FRSTP by means of a sanitary sewer system jointly used by the localities.
2. The Permit authorizes the ACSA to discharge treated sewage from the FRSTP to Christians Creek, Shenandoah River Subbasin, Potomac River Basin.
3. Based on information contained in the Discharge Monitoring Reports ("DMRs") for the FRSTP and other information contained in DEQ's file for the facility, DEQ issued an NOV to the ACSA on May 7, 2003, citing the following apparent violations of the Permit, Va. Code § 62.1-44.5 and 9 VAC 25-31-50 of the VPDES Permit Regulation:
  - December 2002  
Ammonia as N  
TSS loading (average & maximum)  
TSS concentration (average & maximum)
  - January 2003  
TSS concentration average

- February 2003
    - TSS loading average
    - TSS concentration (average & maximum)
    - BOD<sub>5</sub> loading (average & maximum)
    - BOD<sub>5</sub> concentration (average & maximum)
  - March 2003
    - Ammonia as N
    - BOD<sub>5</sub> loading (average & maximum)
  - January 1, 2003
    - 52,750 gallon solids loss
  - February 4, 2003
    - 17,800 gallon solids loss
  - February 22, 2003
    - 82,000 gallon solids loss
4. On June 10, 2003, staff of DEQ met with representatives of the ACSA to discuss the apparent violations referenced above. The ACSA attributes the alleged violations to the following causes:
- a. Deficiency in the design of the FRSTP secondary clarifiers;
  - b. Maintaining a high solids inventory;
  - c. Inflow & Infiltration ("I/I");
  - d. Excessive wet weather flows from the Waynesboro and Staunton City collection systems; and,
  - e. Exceptionally frequent and heavy rains during the period when the apparent violations occurred.
5. DEQ issued an NOV to the ACSA on August 11, 2003, citing the following apparent violations of the Permit, Va. Code § 62.1-44.5 and 9 VAC 25-31-50 of the VPDES Permit Regulation:
- April 2003
    - TSS loading maximum
    - BOD<sub>5</sub> loading (average & maximum)
    - BOD<sub>5</sub> concentration maximum
  - May 2003
    - TSS loading maximum

6. The City of Waynesboro has committed to changing the impeller at its Bookerdale Pump Station to reduce the velocity of the wet weather flows it sends to the FRSTP in order to reduce the potential for these flows to cause a solids loss at the FRSTP. The Bookerdale Pump Station is used only under emergency conditions and was last used in April 2003.
7. The ACSA has expended several million dollars towards I/I corrective action projects since 1995. The ACSA utilizes a full time crew and a newly hired staff engineer to manage this effort. The ACSA has budgeted \$315,000 for I/I reduction for fiscal year 2004.
8. The ACSA began a major \$5,500,000 upgrade to the FRSTP in July 2001. The major component of the upgrade entails replacing the existing secondary clarifiers with two 65-foot diameter clarifiers. Plans for the upgrade were approved by both DEQ and the Virginia Department of Health. Construction of the upgrade commenced on May 5, 2003. At DEQ's request, by letter dated July 7, 2003, the ACSA submitted a plan and schedule of corrective action to address the apparent violations. Portions of the plan and schedule, including the \$5,500,000 plant upgrade already underway, have been incorporated into Appendix A of the Order.

#### **SECTION D: Agreement and Order**

Accordingly the State Water Control Board, by virtue of the authority granted it pursuant to Va. Code §62.1-44.15(8a) and (8d), orders the ACSA, and the ACSA agrees, to perform the actions described in Appendices A, B and C of this Order. In addition, the Board orders the ACSA, and the ACSA voluntarily agrees to pay a civil charge of **\$4,284.00** in settlement of the violations cited in this Order.

1. **\$1,071.00** of this civil charge shall be paid within 30 days of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier's check payable to **"Treasurer of the Commonwealth of Virginia"** and sent to:

**Receipts Control  
Department of Environmental Quality  
P. O. Box 10150  
Richmond, Virginia 23240**

The ACSA shall include its Federal Identification Number with the civil charge payment and shall note on the check that the payment is being made pursuant to this Order.

2. **\$3,213.00** of this civil charge shall be satisfied upon completion by the ACSA of a Supplemental Environmental Project ("SEP") pursuant to Va. Code § 10.1-1186.2 and as described in Appendix B of this Order.
3. By signing this Order, the ACSA certifies that it has not commenced performance of the SEP before DEQ identified the violations in this Order and approved the SEP.

4. In the event that the SEP is not performed as described in Appendix B, upon notification by the Department, the ACSA shall pay the amount specified in Paragraph 2 above within 30 days of such notification according to the procedures specified in Paragraph 1 above, unless an alternate project has been agreed upon by the parties.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of the ACSA, for good cause shown by the ACSA, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the ACSA admits the jurisdictional allegations in the Order, but does not admit the factual allegations or legal conclusions contained herein.
4. The ACSA declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
5. Failure by the ACSA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority as a result of such violations.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. The ACSA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The ACSA shall show that such circumstances were beyond

its control and not due to a lack of good faith or diligence on its part. The ACSA shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and,
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 72 hours of learning of any condition above, which the ACSA intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and the ACSA. Notwithstanding the foregoing, the ACSA agrees to be bound by any compliance date which precedes the effective date of this Order.
10. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the ACSA. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the ACSA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
11. By its signature below, the ACSA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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Robert G. Burnley, Director  
Department of Environmental Quality

The ACSA voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_ day of  
\_\_\_\_\_, 2003, by \_\_\_\_\_, who is  
(name)

\_\_\_\_\_ of the Augusta County Service Authority, on behalf of the Authority.  
(title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.



**APPENDIX A**  
**SCHEDULE OF COMPLIANCE**

**THE AUGUSTA COUNTY SERVICE AUTHORITY**  
**FISHERSVILLE REGIONAL SEWAGE TREATMENT PLANT**

1. **Not later than February 1, 2005**, the ACSA shall complete the upgrade of the FRSTP in accordance with approved plans and specifications and any amendments thereto approved by DEQ.
2. Pending startup of the upgraded FRSTP, the ACSA shall maintain Mixed Liquor Suspended Solids ("MLSS") levels at or below 4,000 mg/l on a weekly average basis. The ACSA shall attempt to maintain MLSS levels at or below 3,000 mg/l whenever possible. **Pending startup of the upgraded FRSTP, the ACSA shall test for MLSS on a frequency of five days per week. The ACSA shall submit its MLSS test results along with each monthly DMR.**
3. The ACSA shall submit Quarterly Progress Reports to DEQ, with the first report being due by **January 10, 2004**. Subsequent Progress Reports will be submitted by **April 10th, July 10th, October 10th and January 10th with the final report due the quarter following issuance of the Certificate to Operate the upgraded FRSTP**. Each report shall describe all actions taken during the preceding quarter to comply with the Order.

**APPENDIX B**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**  
**THE AUGUSTA COUNTY SERVICE AUTHORITY**  
**FISHERSVILLE REGIONAL SEWAGE TREATMENT PLANT**

The Supplemental Environmental Project to be performed by the ACSA is the installation of Supervisory Control and Data Acquisition ("SCADA") equipment at the Woodrow Wilson Sewer Pumping Station. The SCADA equipment will remotely and continuously monitor the pumping station and will serve to prevent or minimize accidental sewer overflows through warning the ACSA by radio signal at the commencement of any overflow event.

1. The SCADA equipment for the Woodrow Wilson Sewer Pumping Station to be installed under the SEP consists of the following items:
  - a. One CT-4000 Front End Processor;
  - b. One I/O –4240 Analog Input Card;
  - c. Two I/O-4480 Status Input/Output Card
  - d. One CA-1511 Modem Card;
  - e. Sixteen Crydom Relays;
  - f. One Utilinet Spread Spectrum Radio # 20043;
  - g. One NEMA 4 Painted Enclosure;
  - h. One fabricated back panel;
  - i. One power supply for the RTU;
  - j. One battery pack for the RTU;
  - k. One strip heater for the RTU;
  - l. One polyphaser;
  - m. One Omni Antenna with heliax connectors;
  - n. One fiberglass antenna mast; and,
  - o. Associated labor and system programming.
2. The cost of the SEP to the ACSA shall not be less than **\$3213.00**. In the event that the final cost of the SEP is less than this amount, the ACSA shall pay the remainder of the amount to the Commonwealth of Virginia, unless otherwise agreed to by the Department.
3. The ACSA acknowledges that it is solely responsible for completion of the SEP project. Any delegation of funds, tasks, or otherwise by the ACSA to a third party, shall not relieve the ACSA of its responsibility to complete the SEP as contained in this Order.

4. The SEP shall be completed **by September 30, 2004.**
5. The ACSA shall submit verification to the Department in the form of a Final SEP Report within 30 days of the project completion date. The Final SEP Report shall identify the final overall cost of the SEP and shall include invoices or other documentation of project costs.
6. In the event that the ACSA publicizes the SEP or the results of the SEP, the ACSA shall state in a prominent manner the project is part of a settlement for an enforcement action.
7. The Department has the sole discretion to determine whether the SEP has been completed in a satisfactory manner.

## APPENDIX C: INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Augusta County Service Authority – Fishersville Regional STP  
VPDES Permit No. VA0025291

During the period beginning with the date of entry of this Consent Special Order and ending 60 days following issuance of the Certificate to Operate the upgraded FRSTP as referenced in Paragraph 1 of Appendix A, the ACSA shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

Such discharges shall be limited and monitored by the ACSA as specified below:

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>						<u>MONITORING REQUIREMENTS</u>	
	<u>Monthly Average</u>		<u>Weekly Average</u>		<u>Min.</u>	<u>Max.</u>	<u>Frequency</u>	<u>Sample Type</u>
	mg/l	kg/d	mg/l	kg/d				
TSS	29.5	223.5	53.7	572.5	NA	NA	5 D/W	24 HC
BOD <sub>5</sub>	24.9	207.7	39.6	471.8	NA	NA	5 D/W	24 HC

NA = Not Applicable